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10/029,073	12/20/2001	John Almeida		5295

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JOHN ALMEIDA  
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EXAMINER

MCALLISTER, STEVEN B

ART UNIT PAPER NUMBER

3627

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/029,073

Applicant(s)

ALMEIDA, JOHN

Examiner

Steven B. McAllister

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 51-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

It is noted that in order to examine the claims, claims 59-104 were interpreted as apparatus claims.

It is further noted that the application presently contains patentably distinct, and therefore restrictable subject matter (at least the apparatus claims, the program claims, and the method claims). In order to expedite prosecution, all claims will be considered. However, the examiner reserves the right to restrict the claims in the future consistent with the MPEP.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 59-115 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 59-115 are indefinite because "solutions" and "virtual solutions" are unclear.

Claims 59-107 are indefinite because "access said plurality of solutions as a front-end means" is unclear, and because it is not clear how a "solution" hosts another "solution".

Claims 65 and 66 are indefinite because "virtually hosting" is unclear.

Claim 72 is indefinite because the preamble of the claim (the preamble of claim 59 from which it depends) recites the subcombination of an apparatus – a virtual network – and the body of the claim (the subject matter recited in body of cls. 59 and 72) recites the combination of elements of the apparatus and method steps presented in claim 72. The claim should be rewritten to positively recite either the combination or the subcombination. In examining the claims, it was assumed that the subcombination was intended to be claimed.

Claims 74 and 75 are indefinite because the preamble of the claim (the preamble of claim 59 from which it depends) recites the subcombination of an apparatus – a virtual network – and the body of the claim (the subject matter recited in body of cls. 59 and 74) recites the combination of elements of the apparatus and method steps presented in the second paragraph of claim 74. The claim should be rewritten to positively recite either the combination or the subcombination. In examining the claims, it was assumed that the subcombination was intended to be claimed.

Claims 76-79 are indefinite because the preamble of the claim (the preamble of claim 59 from which it depends) recites the subcombination of an apparatus – a virtual network – and the body of the claim (the subject matter recited in body of cls. 59 and 76) recites the combination of elements of the apparatus and method steps presented in claim 76. The claim should be rewritten to positively recite either the combination or the subcombination. In examining the claims, it was assumed that the subcombination was intended to be claimed.

Claim 81 is indefinite because the preamble of the claim (the preamble of claim 59 from which it depends) recites the subcombination of an apparatus – a virtual network – and the body of the claim (the subject matter recited in body of cls. 59 and 81) recites the combination of elements of the apparatus and method steps presented in claim 81. The claim should be rewritten to positively recite either the combination or the subcombination. In examining the claims, it was assumed that the subcombination was intended to be claimed.

Claim 93 is indefinite because the preamble of the claim (the preamble of claim 88 from which it depends) recites the subcombination of an apparatus – a virtual network – and the body of the claim (the subject matter recited in body of cls. 88 and 93) recites the combination of elements of the apparatus and method steps presented in claim 93. The claim should be rewritten to positively recite either the combination or the subcombination. In examining the claims, it was assumed that the subcombination was intended to be claimed.

Claims 95-99 are indefinite because “attachable solutions” is unclear.

Claim 108 is unclear because it is not clear what “a method of virtual network” is.

Claim 111 is indefinite because it is not clear how a page has “means to fetch a plurality of contents from a plurality of sources”.

Claim 111 is indefinite because “said content page means” is unclear.

Claim 111 is indefinite because “said returned content” is unclear. It is not clear to which content it refers (it is noted that the content previously recited in the context of returning is “other data”).)

Claim 111 is indefinite because the preamble of the claim recites the subcombination of a method, but the body of the claim recites the combination of method steps and limitations relating only to the apparatus used in the method. The claim should be rewritten to positively recite either the combination or the subcombination. In examining the claims, it was assumed that the subcombination was intended to be claimed.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 59-99, 105-107 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 59, 82, 94, 105 recite that at least one solution is "hosted virtually by not being associated with a physical hosting infrastructure." However, the specification does not adequately describe how a "solution" can be hosted without any physical hosting infrastructure being associated with it, such that one of ordinary skill in the art would be able to make or use the invention without undue experimentation.

Claims 95-104, 109, 110 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claim 95, in the original disclosure, "attachable solutions" and "means for hosting attachable solutions" were not described sufficiently to reasonably convey to one skilled in the art that the inventory had possession of the claimed subject matter at the time of the filing.

As to claim 100 and 109, in the original disclosure, "attachable solutions" and "means for creating attachable solutions" were not described sufficiently to reasonably convey to one skilled in the art that the inventory had possession of the claimed subject matter at the time of the filing.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 59-107, 109, 110 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 59, 82, 88, 105 recite a virtual network hosting solutions without any associated physical hosting infrastructure. However, in order to be statutory subject

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matter, an invention must be tangible, useful, and concrete. In this case, to the extent that the "virtual network" is actually virtual, it is not tangible.

As to claim 95, it recites "attachable solutions" and "means for hosting attachable solutions". However, these were not explained in the specification. The subject matter of the claims is not statutory because it is not concrete. One of ordinary skill in the art would not be assured of reaching the desired result.

As to claim 100 and 109, it recites "attachable solutions" and "means for creating attachable solutions". However, these were not explained in the specification. The subject matter of the claims is not statutory because it is not concrete. One of ordinary skill in the art would not be assured of reaching the desired result.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 59-70, 76-79, 81-91, and 95-115 are rejected under 35 U.S.C. 102(b) as being anticipated by Tobin (6,141,666).

Tobin shows a means and program for hosting a plurality of solutions using a virtual network; wherein at least one solution uses said means for hosting to host another solution, not associated with additional infrastructure.



As to claims 60-70, 81, 83-87, 89-91, 96-99, 101-104, 106, 107, it is noted that Tobin shows all elements.

As to claims 76-79, Tobin shows all elements. It is noted that the means can transmit any type of data, and that the type of data is not further limiting on the apparatus.

As to claim 108, Tobin shows a user accessing the virtual network and accessing a solution and requesting a page; transmitting the page to the user; wherein at least one content is hosted by another solution, said solution hosted by a solution host.

As to claims 109-115, Tobin shows all elements.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 71-75, 80, and 92-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobin.

As to claims 71-73, 92-94 Tobin shows all elements except providing a page in a plurality of foreign languages wherein the information is stored in a database, each column of the database being associated with a solution page in a particular language. However, it is notoriously old and well known in the art to do so. It would have been

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obvious to one of ordinary skill in the art to modify the apparatus of Tobin by providing a page in a plurality of foreign languages wherein the information is stored in a database, each column of the database being associated with a solution page in a particular language in order to enable people who speak different languages to use the system.

As to claims 74 and 75, Tobin shows all elements except providing a tracking means. However, providing such a tracking means is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Tobin by providing the tracking means in order, for instance, for the user to be able to return to his "shopping cart" at a later date.

As to claim 80, Tobin shows all elements except means for exchanging an interface uploaded by a user. However, it is notoriously old and well known in the art to provide means to replace an existing interface or format with a new one. It would have been obvious to one of ordinary skill in the art to do so in order to facilitate updates to the system.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (571) 272-6785. The examiner can normally be reached on M-Th 8-6:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Steven B. McAllister

Steven B. McAllister  
Primary Examiner  
Art Unit 3627

**STEVEN B. MCALLISTER**  
**PRIMARY EXAMINER**